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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91223455
Party	Defendant Leah A. Lessard
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Date	11/11/2015
Attachments	TURBELLA_Answer to Notice of Opposition.pdf(127258 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Color Image Apparel, Inc.,	)	
	)	
Opposer,	)	Opposition No. 91223455
	)	Serial No. 86/562,444
	)	Mark: TURBELLA
v.	)	
	)	
Leah A. Lessard,	)	
	)	
	)	
Applicant.	)	
	)	
	)	
	)	

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**ANSWER TO NOTICE OF OPPOSITION**

Applicant, Leah A. Lessard ("Applicant"), an individual, by her attorneys hereby responds to the allegations set forth in the Notice of Opposition filed by Color Image Apparel, Inc. ("Opposer"), as follows:

1. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 1 of the Notice of Opposition, and therefore, denies such allegations.
2. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 2 of the Notice of Opposition, and therefore, denies such allegations.
3. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 3 of the Notice of Opposition, and therefore, denies such allegations.
4. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 4 of the Notice of Opposition, and therefore, denies such allegations.
5. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 5 of the Notice of Opposition, and therefore, denies such allegations.

6. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 6 of the Notice of Opposition, and therefore, denies such allegations.
7. Applicant admits that the USPTO's TSDR database shows that Opposer is the owner of the trademark registrations alleged in Paragraph 7 of the Notice of Opposition.
8. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 8 of the Notice of Opposition, and therefore, denies such allegations.
9. Applicant admits the truth of the allegations set forth in Paragraph 9 of the Notice of Opposition.
10. Applicant admits the truth of the allegations set forth in Paragraph 10 of the Notice of Opposition.
11. Paragraph 11 does not contain any factual allegations and no response is required.
12. Paragraph 12 does not contain any factual allegations and no response is required.
13. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 13 of the Notice of Opposition, and therefore, denies such allegations.
14. Applicant denies the allegations set forth in Paragraph 14 of the Notice of Opposition.
15. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 15 of the Notice of Opposition, and therefore, denies such allegations.
16. Applicant denies the allegations set forth in Paragraph 16 of the Notice of Opposition.
17. Applicant denies the allegations set forth in the "WHEREFORE" Paragraph of the Notice of Opposition.

#### **AFFIRMATIVE DEFENSES**

18. As a first and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Opposer's claim is barred from recovery due to the fact that no likelihood

of confusion, mistake or deception exists between Applicant's mark and Opposer's alleged marks.

19. As a second and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Opposer's claim is barred from recovery due to the fact that Applicant's mark is not similar in appearance, sound, meaning, or overall commercial impression to Opposer's alleged marks. Specifically, Applicant's mark features the first and dominant portion TUR, which is not present in any of the Opposer's marks, and the marks are completely different when compared in their entireties.
20. As a third and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Opposer's marks are weak and entitled to an extremely narrow scope of protection due to the fact that numerous third party registrations exist for marks containing BELLA for goods that are related to Opposer's alleged goods, including but not limited to DA BELLA, BELLA B, BELLAPOD, TERRA BELLA, BELLA BLISS, BELLA BOTTOMS, BELLA NOTTE, BELLA EVER, CHE BELLA, BELLA MUERTE, AFROBELLA, LA BELLA MAFIA, BELLA TWILIGHT, DOLCE BELLA, BELLA MARIE, DAVE & BELLA, BELLA VITA, GEM BELLA, RCK BELLA, RIVABELLA, FLORA BELLA, BELLA DAHL, and countless others. On information and belief, these marks are in use and are regularly encountered by consumers.
21. As a fourth and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that the term BELLA, which means "beautiful," is highly laudatory for the goods at issue and is therefore weak and entitled to a severely narrow scope of protection.

WHEREFORE, Applicant prays that this opposition be denied and the registration of U.S. Application Serial No. 86/562,444 be granted.

Respectfully submitted,

Dated as of: November 11, 2015

By: /Paulo A. de Almeida/  
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Attorneys for Applicant,  
Leah A. Lessard

**PROOF OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **APPLICANT'S ANSWER** has been served on Lindsay Hulley, counsel for Opposer, on November 11, 2015, via First Class U.S.

Mail, postage prepaid to:

LINDSAY HULLEY  
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By: /Paulo A. de Almeida/  
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